

IN THE CIRCUIT COURT OF MADISON COUNTY, TENNESSEE  
AT JACKSON.

LISA PENCE,

Plaintiff,

VS.

TNMO HEALTHCARE, LLC d/b/a  
AVALON HOSPICE and  
CURO HEALTH SERVICES, INC.,

Defendants.

) Case No. C-13-56

) DIV. III

) **FILED**

MAR 07 2013

KATHY BLOUNT, CIRCUIT COURT CLERK

DEPUTY CLERK 3:15 P.M.

COMPLAINT

COMES NOW the Plaintiff, Lisa Pence (hereafter, the "Plaintiff"), and states unto this Honorable Court as follows for her Complaint against the Defendant, TNMO Healthcare, LLC, d/b/a Avalon Hospice and Curo Health Services, Inc. (hereafter, the "Defendants"):

**I. PRELIMINARY STATEMENT**

Plaintiff Lisa Pence has sued the Defendants for violations of the Tennessee Public Protection Act, pursuant to Tennessee Code Annotated § 50-1-304. The Tennessee Public Protection Act, ("TPPA"), commonly known as the "whistleblower" statute, provides a cause of action for employees, including state workers, who are terminated "solely for refusing to participate in, or for refusing to remain silent about, illegal activities." *Tenn. Code Ann. § 50-1-304(b)*. Plaintiff sues the Defendants for retaliatory discharge under Tennessee common law as well.



## II. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is an adult citizen and resident of Henderson County, Tennessee, whose principal address is 365 Davis Road, Lexington, Tennessee 38351.
2. Defendant, TNMO Healthcare, LLC, is a Delaware limited liability company doing business in Tennessee as Avalon Hospice. Defendant TNMO's principal office is located at 491 Williamson Road, Suite 204, Mooresville, North Carolina 28117. Defendant TNMO's registered agent for service of process is C.T. Corporation Systems, 800 South Gay Street, Suite 2021, Knoxville, TN 37929-9710.
3. Defendant, Curo Health Services, Inc., is a Delaware corporation doing business in North Carolina. It is the parent company of Defendant Avalon Hospice. Its principal office is located at 491 Williamson Road, Suite 204, Mooresville, North Carolina 28117. Defendant Curo's registered agent for service of process is C.T. Corporation System, 150 Fayetteville Street, Raleigh, NC 37601.
4. Jurisdiction and venue are proper in this Honorable Court. Substantially all of the actions complained of occurred in Madison County in Tennessee.

## III. FACTS

5. Plaintiff is a former employee of Defendants, having been employed by Avalon Hospice from on or about June 27, 2011 until Defendants terminated Pence's employment on or about March 10, 2012.
6. Plaintiff was terminated by Defendants for refusing to perform the illegal tasks Defendants required her to do. Soon after Plaintiff made numerous complaints to

her superiors making clear references to activities occurring in the Jackson office that were fraudulent and illegal and in which she was ethically and legally prohibited from participating. Defendants terminated her employment. In her termination statement, Plaintiff was cited for "disruptive behavior" and "negativity."

7. Illegal activities in which Plaintiff refused to participate and about which she reported to superiors include, but are not limited to, the following:
  - a. Sending unlicensed personnel to perform patient services that only licensed personnel may perform;
  - b. Falsification of time sheets; and
  - c. Falsifying that physicians had given oral orders when no such orders were given.
8. After Plaintiff began notifying upper management about the illegal activities in the Jackson office, she began receiving write-ups which were undeserved. The second write-up resulted in her termination. Previous to her refusals to participate in the illegal activities and her complaints, she had a stellar employment record. Shockingly, it was corporate officials who labeled her as "negative," "insubordinate," and "disruptive" after her reports to them. Corporate officials wrote Plaintiff up for "making false malicious statements" about her supervisor's leadership.
9. Based upon the foregoing, Plaintiff has experienced humiliation, degradation, embarrassment, loss of income, mental anguish, and other damages.

#### **IV. CAUSES OF ACTION**

10. The foregoing facts are incorporated by reference as if set forth fully herein.
11. The Plaintiff brings the following causes of action against the Defendants:

- a. Plaintiff sues the Defendants for violations of the Tennessee Public Protection Act, pursuant to Tennessee Code Annotated § 50-1-304, or the "whistleblower" statute, for her termination "solely for refusing to participate in, or for refusing to remain silent about, illegal activities." *Tenn. Code Ann.* § 50-1-304(b).
- b. Plaintiff sues the Defendants for retaliatory discharge under Tennessee common law as well.

**V. DAMAGES**

12. Plaintiff has been greatly damaged as a result of the Defendants' actions. She has suffered, and will continue to suffer, damage including, but not limited to, loss of her professional and personal reputation, loss of income, loss of business opportunity, and mental distress.
13. Plaintiff seeks all compensatory damages, including lost wages, lost earning capacity, emotional distress, and embarrassment. She also seeks her attorney fees, costs, and both prejudgment and post-judgment interest and any other damages as allowed under the TPPA and common law.

**VI. PRAYER FOR RELIEF**

WHEREFORE, premises considered, Plaintiff prays:

- A. That proper process issue and be served upon the Defendants, and that Defendants be required to appear and answer this Complaint within the time required by law.
- B. That Plaintiff be awarded a judgment for compensatory damages and other recoverable losses against Defendants in an amount deemed proper by the jury.

C. That Plaintiff be awarded punitive damages against Defendants in an amount sufficient to punish its wrongful conduct and deter such wrongful conduct in the future.

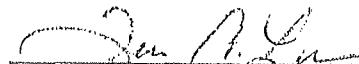
D. That the costs of this action be awarded to Plaintiff.

E. That the Plaintiff be awarded her attorney fees, costs, and both prejudgment and post-judgment interest.

F. Such further and other general relief to which Plaintiff may be entitled.

Respectfully submitted,

SPRAGINS, BARNETT & COBB, PLC

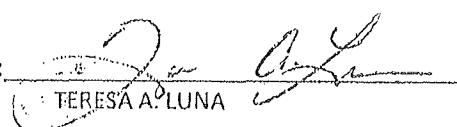
  
TERESA A. LUNA #26447

Attorneys for Plaintiff  
P.O. Box 2004, 312 E. Lafayette Street  
Jackson, TN 38302  
(731) 424-0461  
(731) 424-0562 (Telefax)  
[tluna@spraginslaw.com](mailto:tluna@spraginslaw.com)

COST BOND

We stand as sureties for costs in this cause.

SPRAGINS, BARNETT & COBB

By:   
TERESA A. LUNA

CT Corporation

**Service of Process  
Transmittal**  
06/05/2013  
CT Log Number 522866691

**TO:** Doug Abell, Secretary and General Counsel  
Curo Health Services, Inc.  
491 WILLIAMSON ROAD, SUITE 204  
MOORESVILLE, NC 28117

**RE:** **Process Served in Tennessee**

**FOR:** TNMO Healthcare, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

**TITLE OF ACTION:** Lisa Pence, Pltf, vs. TNMO Healthcare, LLC, etc. and Curo Health Services, Inc., Dfts.

**DOCUMENT(S) SERVED:** Alias Summons, Complaint

**COURT/AGENCY:** Madison County Circuit Court, TN  
Case # C1356D/V111

**NATURE OF ACTION:** Employee Litigation - Wrongful Termination - March 10, 2012 - plaintiff's employment was wrongfully terminated for refusing to perform illegal work

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Knoxville, TN

**DATE AND HOUR OF SERVICE:** By Certified Mail on 06/05/2013 postmarked on 06/03/2013

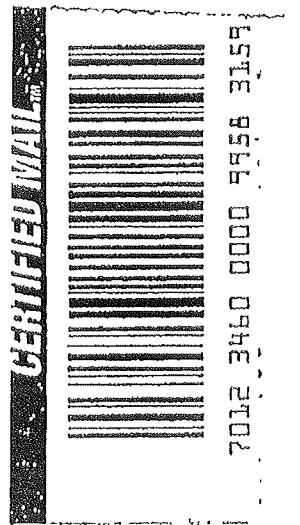
**JURISDICTION SERVED:** Tennessee

**APPEARANCE OR ANSWER DUE:** Within 20 days after service, exclusive of the date of service

**ATTORNEY(S) / SENDER(S):** Teresa A. Luna  
Spragins, Barnett & Cobb, PLC  
P.O. Box 2004  
312 E. Lafayette Street  
Jackson, TN 38302  
731-424-0461

**ACTION ITEMS:** CT has retained the current log, Retain Date: 06/06/2013, Expected Purge Date: 06/11/2013  
Image SOP  
Email Notification, Doug Abell dabel@cuohs.com  
Email Notification, Sam Rose srose@fmhd.com  
Email Notification, Scott Gowen Sgowen@fmhd.com  
Email Notification, Teri L Barnett tbarnett@fmhd.com

**SIGNED:** C T Corporation System  
**PER:** Amy McLaren  
**ADDRESS:** 800 S. Gay Street  
Suite 2021  
Knoxville, TN 37929-9710  
**TELEPHONE:** 800-592-9023



TNMO Healthcare, LLC, d/b/a Avalon Hospice  
c/o C.T. Corporation Systems  
800 South Gay Street, Suite 2021  
Knoxville, TN 37929-9710

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